

6. Procurement

6.1 Procurement Requirements

Agencies shall comply with all procurement requirements of the Weatherization Program. Such requirements include a combination of State of Wisconsin and federal requirements (Office of Management and Budget Circulars; Code of Federal Regulations 2 CFR 200; Weatherization Program Notices; and all other applicable federal requirements). Requirements apply, regardless of their inclusion in this Manual.

An Agency is subject to the following general requirements:

- 1) Maintain records sufficient to detail the history of a procurement and retain documentation to demonstrate compliance with requirements. These records shall include the following: a rationale for the method of procurement, selection of contract type, contractor selection or rejections, and the basis for the contract price. An optional Procurement Records Checklist is available on the HE+ Procurement SharePoint site under the Resources heading.
- 2) Demonstrate effort to utilize small businesses, minority-owned, women-owned and disabled veteran-owned businesses (see [6.13 Affirmative Action/Contract Compliance](#)).
- 3) Follow open records requirements after a bid process is complete and contracts are executed with selected vendors. All open records requests are determined on a case-by-case basis.
- 4) Be responsive to inquiries or requests for information from bidders following a commodities contract award.
- 5) Award contracts to the lowest responsive and responsible bidder(s), if in the best interests of the Agency.
- 6) Award contracts only to responsible contractors who possess the ability to perform successfully under the terms and conditions of a procurement.

6.2 Code of Conduct

An Agency shall maintain a code, or standard, of conduct that will govern the performance of its officers, employees and agents engaged in the awarding and operation of contracts.

No employee, officer or agent of the Agency shall participate in the selection, award or administration of a contract supported by Federal or State funds if a real or apparent conflict of interest exists. Accepting gratuities, favors, anything of monetary value from contractors, or having a financial interest in a firm selected for award, would cause a real or apparent conflict of interest to exist.

6.3 Annual Procurement Planning

Annual planning to determine an Agency's procurement needs is highly recommended by the Division. An annual procurement planning template is available on the HE+ Procurement SharePoint page. This template can assist an Agency with annual procurement planning, including identifying commodities and services to be acquired, and the timing and method of procurement based on potential contract cost. Use of this template is optional.

6.4 Competition

All procurements shall be conducted in a manner to provide open and free competition, to the maximum extent practical. Agencies should be alert to organizational conflicts of interest and non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade.

To ensure objective contractor performance, and eliminate unfair competitive advantage, any contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals shall be excluded from competing for such procurements.

6.5 Cost Analysis

If an Agency is considering a change from using primarily Agency staff to subcontracting for a service (or the reverse), the Agency shall perform a cost analysis and contact the Division for approval prior to implementing the change. Agencies shall document the results in the procurement file.

Agency procedures shall provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration shall be given to consolidating or separating procurements to obtain a more economical purchase. Where appropriate, an analysis of lease versus purchase alternatives shall be performed to determine the most economical approach.

6.6 Procurement Method and Contract Cost

Applicable requirements shall be followed based on the estimated contract cost, including:

- 1) Estimated contract cost shall be based on a determination of whether commodities or services could reasonably be acquired from a single procurement. When an Agency chooses to purchase like items in separate purchases, the rationale for this decision shall be documented as part of the cost analysis (e.g., HE+ Emergency Furnace and Weatherization HVAC services were purchased separately due to the unique requirements for Emergency Furnace service).
- 2) Serial contracting is the practice of issuing a series of smaller purchase orders to one or more vendors for the same commodity or service in order to avoid the sealed bid process. Serial contracting is prohibited.
- 3) Agencies shall plan procurements to ensure that serial purchasing does not occur. Commodities or services that can logically be grouped together (refrigerators and freezers; bath fans and range hoods; miscellaneous weatherization materials such as lumber, hardware and adhesives, etc.) shall be procured using a method based on the anticipated aggregate dollar threshold. This aggregate total is for the term of the fiscal year beginning July 1. See Table 6-1 below.
- 4) Potential contract extensions shall be taken into account when calculating the aggregate total for all procurement types.
- 5) When a building requires specialized equipment or services, including specialized expertise that is not covered under a prior procurement, a separate procurement is required. Provide bidders with the opportunity to acquire detailed information that allows accurate pricing for the complete scope of work.

- 6) When necessary equipment or services are covered under a prior procurement Agencies have the option to perform a separate procurement for specialized or unique situations, and are encouraged to do so if this option will likely result in lower overall costs.

Table 6-1 Procurement Methods and Requirements for Non-Vehicle Purchases

Requirements	Best Judgement \$3,000 or less	Simplified Bid \$3,001 – 50,000	Sealed Bid (RFB) Over \$50,000
File Records demonstrating need and detailing history of the procurement	Required	Required	Required
Identify all applicable standards and specifications	Required	Required	Required
Solicitation List	Optional	Strongly Recommended	Required
Minimum number of bid prices required	n/a	3	3 (when available)
Cost Sheets	Optional	Required	Required
Term of Contract	Purchase Order	Up to 3 years (with renewals)	Up to 3 years (with renewals)
Terms and Conditions	Purchase Order	Required	Required
HE+ Bid Template	n/a	Optional	Required
Public Notice of Intent	n/a	n/a	Required
Bid Meeting	n/a	Optional	Required as necessary
Public Bid Opening	n/a	n/a	Required
Awards to Multiple Bidders	n/a	Optional	Strongly Recommended
AA/CC	Optional	Optional	Required for services contracts only
MBE Search	n/a	n/a	Required
Retention Agreement	n/a	1-year contract required	Required
Method of Award	Vendor judged best able to supply goods or services	Lowest Responsible Bidder	Lowest Responsible Bidder
Contract Renewal	n/a	Optional for one year periods (maximum 2); notice must be given in original bid specifications	

Applicable requirements from 2 CFR 200 shall be followed, including:

- 1) The “cost plus a percentage of cost” and the “percentage of construction cost” methods of contracting shall not be used.

- 2) Agencies shall not use time and material type contracts, unless prior written approval has been obtained from the Division, and only:
 - a) After a determination that no other contract is suitable (the determination shall document why it is not possible to estimate the extent of work, the duration of work, or the anticipated costs), and
 - b) If the contract includes a ceiling price that the contractor would exceed at their own risk.

More specific guidance on conducting various procurement methods is available on the HE+ Procurement SharePoint site. Agencies should contact the Help Desk if an exception is identified or if further guidance is required.

6.7 Purchases up to \$50,000

The requirement to identify the applicable Wisconsin Weatherization Field Guide and Weatherization Program Manual standards and specifications applies to both forms of procurements up to \$50,000 (See 6.12 Specifications).

6.7.1 Best Judgment Purchases \$3,000 or Less

When the estimated cost of a transaction is **\$3,000 or less**, an Agency shall select the vendor judged best able to supply the goods or services. Consider the following when selecting a vendor:

- 1) Location of delivery point.
- 2) Quality of goods/service to be supplied.
- 3) Price.
- 4) Conformity with specifications and standards.
- 5) Purpose for which the goods/services are required.
- 6) Date of delivery.
- 7) Capacity to supply the goods/services in a timely manner.

6.7.2 Simplified Bid Purchases \$3,001 to \$50,000

When the estimated cost of a transaction, or multiple like transactions, is between \$3,001 and \$50,000, an Agency shall demonstrate a good faith effort to obtain bid prices from three or more qualified bidders and make a selection based on lowest price. These bid prices may be:

- 1) Written price quotes;
- 2) Quotes on file (e.g. catalogs, on-line print-outs, etc.);
- 3) Telephone or other oral quotes:
 - a) Oral quotes shall include the name of the firm and individual, date, price quote, delivery information and other pertinent information.
 - b) When an oral quote is accepted, the bidder must confirm the bid in writing.
- 4) Written bids.

To increase the likelihood of a pool of qualified bidders, developing a solicitation list is strongly recommended (retain this documentation as part of the procurement record).

When procuring services with a simplified bid, bidders shall be provided with a written document that includes: method of award, cost sheet, specifications and applicable terms and conditions. An optional Simplified Bid template is available on the HE+ Procurement SharePoint page.

Document all received bids on a written bid summary form. The form may be any format designed by the Agency; however it shall contain information showing the basis for the selection (e.g., low cost, delivery terms, etc.). An exception to this requirement applies to vehicle purchases \$3,001 to \$50,000 (see [6.10.1](#)).

The contract renewal terms identified in Section 6.8.3 may also be incorporated into a simplified bid process, using the same conditions.

6.8 Sealed Bid Purchases over \$50,000

The Sealed Bid process is used for soliciting bids from at least three bidders (when available) when the procurement is expected to cost over \$50,000. This process is also referred to as Request for Bid (RFB). There are different requirements for procurement of vehicles over \$50,000 (see 6.10). A Request for Proposal (RFP) process is required for a financial audit regardless of cost (see 6.11).

For the procurement of services and commodities, except for a financial audit, the Agency shall use the required templates and attachments available on the HE+ Procurement SharePoint page. Agencies are limited to modifying RFB templates as directed by notes within the documents and by direction provided by the Division.

6.8.1 Bid Procedures

The following requirements apply to Sealed Bid procurements:

- 1) Documentation of compliance with requirements shall be retained.
- 2) Use of a solicitation list to announce the procurement (including potential vendors/contractors). The Agency shall ensure that lists of persons, firms or products, which are used in acquiring goods and services, are current and include enough qualified sources to ensure open and free competition.
- 3) Publishing a public Notice of Intent to request bids in a local/regional newspaper that reaches potential vendors for the service territory. Trade, civic, or social publications may provide additional means of attracting small, veteran-owned, minority, or handicapped business bidders.
- 4) See VendorNet [PRO-C-5](#), X. Public opening and reading of bids.
- 5) Faxed or emailed bids are not allowed. An Agency may propose a system for accepting email bids, but written Division approval is required prior to implementation.
- 6) Agencies may award contracts to multiple bidders to ensure adequate capacity for timely completion of contracts. Bid awards to multiple contractors are strongly recommended and shall be clearly stated in the Method of Award. See the HE+ Procurement SharePoint page for Method of Award examples.

- 7) Follow the Minor Omissions Policy for Weatherization Agency Procurements available on the HE+ Procurement SharePoint page.

6.8.2 Cost Sheet Requirements

When a procurement includes a labor rate (time) or material mark-up percentage, these costs shall be incorporated into the calculation of Grand Total Cost, as identified in the example cost sheet below.

To the maximum extent possible, the Agency shall define the items to be procured as fixed price items, including time (e.g., installation of measures). There may be exceptions in which the Grand Total Cost requirement does not apply; contact the Help Desk for guidance.

The following cost sheet is provided as an example to clarify this requirement:

Measures - cost of materials & installation	Estimated Quantity	Unit Cost	Total item cost
Measure a	12	\$1,056	\$12,672
Measure b	80	\$2,030	\$162,400
Measure c	44	\$456	\$20,064
Category 1 Total			\$195,136
Measure x	10	\$55	\$550
Measure y	17	\$343	\$5,831
Measure z	11	\$17	\$187
Category 2 Total			\$6,568
Additional labor hours	1000	\$40	\$40,000
	Value	Bidder provided %	
Misc. materials mark-up	\$1000	15%	\$150
GRAND TOTAL			\$241,854

6.8.3 Contract Renewal

A contract resulting from a HE+ Weatherization or Furnace Program RFB, or simplified bid process, may be renewed for two (2) additional one (1) year periods, for a total of three (3) years, if:

- 1) Notice was given in the original bid specifications, and
- 2) Agreement is by mutual consent.

This time period is at the discretion of the Agency and may be modified by the Agency to provide either no renewals, or a one-year renewal only.

6.9 Price Increases

Price increases to a contract, including contract renewals, are limited to fully documented cost increases to the contractor which are demonstrated to be industry wide. This applies to contracts resulting from both simplified and sealed bid procurements.

An allowable price increase applies only to materials costs, not to unit installation costs (labor).

6.10 Vehicle Lease or Purchase

Vehicle lease or purchase shall be based on a demonstrated Agency need.

Only PB funds, funds resulting from an approved disposition, or an approved disposition applied as a trade-in, may be used to **purchase** vehicles. PB, DOE, or LIHEAP funds may be used to **lease** vehicles.

A disposition request and a request for purchase can be submitted to the Division at the same time.

Agencies shall request Division approval for purchases with a total purchase price over \$5,000 per unit (see [7.1 Property](#)). A disposition request and a request for purchase may be submitted to the Division at the same time. An optional disposal/approval template is available on the HE+ Procurement SharePoint site.

Agencies shall use the total purchase price to determine a procurement method, and whether permission to purchase is required. If trading in vehicles, the trade-in value shall not be deducted when determining the total purchase price and procurement method.

When the estimated lease or purchase cost of a vehicle is \$3,000 or less, an Agency shall select the vendor judged best able to supply the required vehicle. Agencies shall use a modified simplified bid process for lease or purchase of vehicles totaling \$3,001 to \$50,000. Agencies shall use a sealed bid process for lease or purchase of vehicles totaling more than \$50,000. See Table 6-2 below.

If leasing vehicles, Agencies shall use the total vehicle purchase price as the basis for the lease contract amount.

If exercising an option to buy a vehicle at end of lease term, Agencies are allowed the option of reviewing recent local/regional auction sales and NADA Blue Book values of comparable vehicles as sufficient justification to buy a vehicle out of lease at a competitive price. This option is based on program efficiencies realized due to the vehicle already being in service, and knowledge of vehicle's operating and maintenance history, etc. Agencies shall maintain full documentation of comparable vehicle pricing reviews.

Table 6-2 Vehicle Procurement Method

	Allowable Funds	Procurement Method (based on total cost)		
		\$3,000 or less	\$3,001 – \$50,000	Over \$50,000
Purchase	<ul style="list-style-type: none"> • PB • Division approved trade-in or disposal 	Best Judgement (see 6.7.1)	Modified Simplified Bid (see 6.10.1)	Sealed Bid (see 6.10.2)
Lease	<ul style="list-style-type: none"> • PB • DOE • LIHEAP 			

6.10.1 Modified Simplified Bid for Vehicle Lease or Purchase \$3,001 to \$50,000

The Division will allow lease or purchase of new or used vehicles through a modified simplified bid process. Prior to beginning procurement, the Agency shall ensure equal comparison between vehicles and provide vendors with specifications that are specific enough to meet the Agency needs, yet also encourage competition.

Do not include specification features that may preclude the ability of a vendor to bid (must have a “Hemi” engine, specific color, etc.). This process is particularly important when considering used vehicles. See 6.10.2 for additional requirements on vehicle purchases.

The following requirements apply to lease or purchase of new or used vehicles through a modified simplified bid:

- 1) All vehicles shall be purchased only with PB funds, funds resulting from an approved disposition, or an approved disposition applied as trade-in.
- 2) PB, DOE, or LIHEAP funds may be used to lease vehicles.
- 3) A minimum of 3 bids shall be obtained from qualified vendors.
- 4) Notice shall be provided to an appropriate list of potential bidders.
- 5) Specific information shall be provided to all bidders (e.g., location of delivery point, dealer to pay for delivery, specifications and standards, date of delivery, and quality).
- 6) Consider quality of vehicle to be supplied, price of vehicle including delivery, conformity with specifications, purpose for which the vehicle is required, and date of delivery.
- 7) The Sealed Bid process is required when a total of more than \$50,000 of vehicles will be purchased, regardless of the number of vendors or vehicle types.

6.10.2 Sealed Bid Vehicle Lease or Purchase from Sources Other than Agency

Agencies shall use a sealed bid process for lease or purchase of vehicles totaling more than \$50,000. See general procurement guidelines (Section 6.8) for purchases in excess of \$50,000 and obtain a minimum of three (3) bids. See the HE+ Procurement SharePoint page for a Vehicle RFB template.

The Agency shall have possession of the purchased vehicles and the title during the term of the contract when the purchase was made.

The following requirements apply to Vehicle lease agreements and purchases:

- 1) Vehicle Specifications:
 - a) Age of vehicle (if used)
 - b) Mileage (if used)
 - c) Vehicle type
 - d) Body style
 - e) Size (½ ton, 1 ton, etc.)
 - f) Engine size
 - g) Accessories/options
 - h) Description of vehicle's general condition (if used)
 - i) Early lease termination clause
 - j) Lease/purchase contract conditions
- 2) Obtain a minimum of three sealed bids from different sources for lease of similar types of vehicles for the same time period.
- 3) Leases with maintenance clauses may not be compared to those without them.

6.10.3 Vehicle Lease from Agency

The Agency may lease vehicles it owns to its weatherization operation. The Division allows cost allocations to the extent that the costs are reasonable according to:

- 1) Costs of comparable vehicles, if any;
- 2) Market conditions in the area; and
- 3) Type, life expectancy, condition and value of the leased vehicle.

If the Agency leases a vehicle to the Weatherization Program, charges to the Program may not exceed the actual costs to the Agency. Agency costs may include purchase price, interest, lease administration charges, maintenance, etc.

If the vehicle was purchased with Weatherization Program (state or federal) funds, the Agency may not charge lease costs of the vehicle to the Weatherization Program. It may be used by the Weatherization Program but not paid for a second time with Weatherization Program (state or federal) funds.

If the vehicle was **not** purchased with Weatherization Program funds, the Agency may charge lease costs of the vehicle to the Weatherization Program.

To document the rationale for leased vehicles, keep the following information on file and available for review:

- 1) Vehicle Specifications:
 - a) Age of vehicle (if used)
 - b) Mileage (if used)
 - c) Vehicle type
 - d) Body style
 - e) Size (½ ton, 1 ton, etc.)
 - f) Engine size
 - g) Accessories/options
 - h) Description of vehicle's general condition (if used)
 - i) Early lease termination clause
 - j) Lease/purchase contract conditions
- 2) Competitive bids from other sources for lease of similar types of vehicles for the same time period.
- 3) An explanation of how the lease amount was computed, the methodology used and the amount of lease termination costs.
- 4) Justification, including detail of total lease costs compared to purchase costs.
- 5) Leases with maintenance clauses may not be compared to those without them.

6.11 Financial Audit Request for Proposal

For the procurement of financial audit services, a Request for Proposal (RFP) shall be utilized and the following requirements apply:

- 1) Requests for Proposals (RFP) shall be publicized or an optional audit firm solicitation list is available from the Division to meet the publicizing requirement. This list includes financial audit firms who have experience auditing Wisconsin Weatherization Programs. Contact the Help Desk to request the solicitation list. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- 2) Proposals shall be solicited from an adequate number of qualified Financial Audit firms and Invitation to Propose letters shall be sent out one month prior to RFP release date;
- 3) RFP should contain language identifying the type of audit experience required;
- 4) There shall be a method for conducting technical evaluations of the proposals received and for selecting the awardee; and

- 5) All evaluation factors and their relative importance shall be identified in the Request for Proposals;
- 6) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- 7) Also see Vendornet [PRO-C-12](#) for further guidance on RFP procedures and requirements.

6.12 Specifications

An Agency shall define and provide the specifications for goods or services to be acquired for each simplified and sealed bid procurement. To meet this requirement, an Agency shall identify the applicable Wisconsin Weatherization Field Guide requirements and Weatherization Manual standards/specifications.

Installation of materials shall follow required health and safety protocols and shall be of professional quality in order to ensure the effectiveness of the measure. All heating envelope and building measures shall be installed to meet a minimum expected service life of 20 years. Require materials and installation standards for weatherization materials that meet the standards set forth in the Weatherization Manual, annual contract requirements, or 10 CFR Part 440, Appendix A, whichever is more restrictive. Agencies shall ensure that bidders have access to these standards by providing the standards as part of the simplified or sealed bid package. A bidder's products and services may exceed standards. See the HE+ Procurement SharePoint site for various technical and example specifications.

Agencies shall comply with the following requirements for specifications:

- 1) Specifications presented to potential bidders shall define the product or end result of the contract, and the time in which contract performance is to be completed.
- 2) Develop specifications to preclude restrictive provisions and encourage bidder competition.
- 3) Develop specifications to permit the lowest responsible bid to be the principal basis of award.
- 4) Use performance criteria that will not restrict competition or limit the number of sources bidding.
- 5) Use generic specifications with no trade or brand names.
- 6) The procurement specifications shall not exceed materials and installation standards and service requirements, as stated in the Weatherization Program Manual and Field Guide, without prior written approval from the Division.
- 7) Properly identify scope of work (items to be included in the bid) and material/equipment specifications to achieve equitable cost comparison and expected building outcomes. When the complexity of the project requires design, include the design parameters.

6.13 Affirmative Action/Contract Compliance

Affirmative Action/Contract Compliance (AA/CC) requirements identified in [s.16.765, Wis. Stats.](#), and Department of Administration, Administrative Code, [Chapter 50](#), apply to Agency procurements as follows:

- 1) When services are contracted, and the resulting contract is estimated to be over \$50,000, the Agency shall ensure that AA/CC requirements are met as described in this section. Such services include auditing, inspection and installation of materials and commodities.
- 2) Procurement of commodities (e.g., materials, equipment, or major mechanicals) for installation by Agency staff is not subject to the AA/CC requirement.
- 3) Procurement of refrigerators/freezers, including installation/removal by the vendor, is considered to be a commodity and is not subject to the AA/CC requirement.
- 4) AA/CC provisions shall be included as part of Sealed RFB and RFP procurements. AA/CC does not apply as a result of cumulative expenditures awarded through separate contracts.
- 5) Contractors with fewer than 50 employees are exempt from having an AA Plan, but must submit an exemption request to the Agency.
- 6) The Agency shall review and approve AA plans. Plans or exemption requests shall be processed within fifteen (15) working days of receipt.
- 7) Once a plan is approved, the Agency shall provide the contractor with the required notice (Compliance Law Poster) that sets forth the provisions of the State of Wisconsin nondiscrimination clause.
- 8) The AA/CC requirements do not apply to a contractor's lower-tier subcontractors (these requirements only transfer down one tier from the Agency).

Customer File documentation shall include, at a minimum:

- 1) Approved Affirmative Action Plan or Exemption Request for each services contractor.
- 2) Information related to approval or denial of plan or exemption request.
- 3) Other items as directed by the Division.

6.13.1 Affirmative Steps

In outreach and design of the bid package, an Agency shall follow the Affirmative Steps requirements identified in [2 CFR 200.321](#) to ensure that small and minority firms, women's business enterprises and disabled veteran-owned business enterprises have the opportunity to participate in the bid. These steps shall include:

- 1) Including qualified small and minority firms, women's business enterprises and disabled veteran-owned business enterprises on solicitation lists whenever they are potential resources.
- 2) Dividing total requirements and establishing delivery schedules, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority firms, women's business enterprises and disabled veteran-owned business enterprises.
- 3) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the U.S. Department of Commerce.
- 4) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

Affirmative Steps Definitions:

- 1) “Small business” means a business which has had less than \$1.5 million in gross annual sales in the most recent calendar or fiscal year (Wis. Stats. s. 16.75(4)(c)).
- 2) “Women’s business enterprise” (WBE) means a business that is at least 51 percent owned, controlled and actively managed by a woman or women (Wis. Adm. Code ILHR 830.02(14)).
- 3) “Minority business enterprise” (MBE) is a business certified by the Department of Commerce under Wis. Stats. s. 560.036(2). “Minority group member” means any of the following: Black American, Hispanic American, American Indian, Eskimo, Aleut, native Hawaiian, American Asian-Indian, and an American of Asian-Pacific origin (Wis. Stats. s. 16.287(2)).
- 4) “Disabled Veteran-owned Business Enterprise” (DVB) is a business certified by the Department of Administration as at least 51% owned, controlled, and actively managed by disabled veteran group members.

6.13.2 Documentation of Affirmative Steps

Documentation shall show that the Agency followed the Affirmative Steps for each Sealed RFB. At a minimum, such documentation shall include a copy of the solicitation list developed for each procurement and a printout of the search results for certified MBE, WBE and DVB businesses from the DOA Wisconsin Supplier Diversity Program, [Business Search](#). The search shall be based on ‘products/services’ and ‘county’.

6.13.3 Supplier Diversity Preference

Qualified bids from certified MBE or Disabled Veteran-owned Business Enterprises DVB may be provided up to a five percent (5%) bid preference, in accordance with Wis. Stats. s. 16.75(3m).

- 1) To apply this requirement, take the lowest bid and add 5%; if a certified MBE or DVB bid price is within that amount, the MBE/DVB is awarded the bid.
- 2) For example, a low bid = \$1,000; $\$1,000 \times 1.05 = \$1,050$. If the MBE/DVB firm submits a bid of \$1,050 or less, they are awarded the bid.
- 3) For more guidance see [VendorNet PRO-D-1](#) and the DOA [Supplier Diversity Program](#).

6.13.4 Bid/Performance Bonds

The use of bid or performance bonds is not allowed. An exception to this requirement may be provided if an Agency submits written justification, and receives written Division approval, prior to releasing the bid.

6.14 Warranty Requirements

An Agency shall warranty workmanship, materials and products on **all work** for at least one year, in addition to the manufacturer’s standard warranties on all items. This one-year warranty shall commence on the date of the final inspection.

Subcontracted work procured through a bid process requires a one-year warranty which commences on the date of satisfactory completion of the work. This warranty period is separate from the one-year warranty required of Agencies.

To avoid excess costs associated with replacing failed light bulbs, light bulbs that fail within the warranty period shall be exchanged in a cost-effective manner, such as customers taking failed bulbs into the Agency office for exchange.

6.15 Vendor Payments

Agencies shall make timely payments to vendors as follows:

- 1) The Agency shall normally pay properly submitted vendor invoices within thirty (30) days of receipt, provided that goods and/or services have been delivered, installed (if required), and accepted as specified.
- 2) A good faith dispute, or an improper invoice, creates an exception to prompt payment only when the vendor is notified in writing of the reason for the dispute or improper invoice.
- 3) After a dispute is settled, or improper invoice is resolved, the agency shall have 30 days to pay the invoice.

6.16 Contract Management

A system for contract management and administration shall be maintained to ensure contractor conformance with the terms, conditions, and specifications of the contract, and to ensure adequate and timely follow up of all services and purchases. Agencies shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

- 1) Contractors/vendors shall be provided with the **right to cure** except if the contractor/vendor breaches or defaults an obligation under their Contract as follows:
 - a) Fails to perform any material obligation required under the Contract such as
 - Files a petition in bankruptcy, becomes insolvent, or otherwise takes action to dissolve as a legal entity;
 - Does not allow a final judgment to be satisfied, or a lien to be disputed, after a legally-imposed 30-day notice; or
 - Makes an assignment for the benefit of creditors;
 - b) Fails to follow the sales and use tax certification requirements of [Wis. Stats. s. 77.66](#);
 - c) Incurs a delinquent Wisconsin tax liability;
 - d) Fails to submit a nondiscrimination or affirmative action plan as required;
 - e) Fails to follow the nondiscrimination or affirmative action requirements of [Wis. Stats. s. 111 Subchapter II](#) (Wisconsin's Fair Employment Law);
 - f) Becomes a federally debarred Contractor;
 - g) Is excluded from federal procurement and non-procurement contracts;
 - h) Fails to maintain and keep in force all required insurance, permits, and licenses as provided in the Contract;
 - i) Fails to maintain the confidentiality of the State's information that is considered to be Confidential Information, proprietary, or containing Personally Identifiable Information; or
 - j) Contractor performance threatens the health or safety of a State or Agency employee, or an Agency's customer.
- 2) An Agency shall document their contractor performance management process as part of the requirement for a documented Quality Control System (see [Section 2.1.6](#)).

- 3) If a Grantee intends to terminate a contract due to performance issues, the Grantee shall notify the Help Desk within 30 days of the decision to terminate. The notification shall include a copy of the signed contract and/or bid document, the date the contract was or is proposed to be terminated, and a brief description of the reason for termination.

6.17 Property Improvements through Contractors

An Agency contracting under the weatherization program for any improvement of a property, in which the address for the improvement is identified to the contractor, shall inform the contractor of the following:

- 1) The only recourse for payment is the weatherization agency. By agreeing to perform weatherization work the contractor agrees to the following terms and agrees to pass along the following requirements to their suppliers and any subcontractors:
 - a) The contractor agrees they will not, under any circumstances, seek payment from the owner or occupant of the premises improved.
 - b) The contractor shall not file, suffer, or permit any lien or other encumbrance of record as a claim against any site of a weatherization project in recognition that the only recourse for payment is from the weatherization agency.
 - c) An optional form is available on the HE+ Procurement SharePoint site for informing subcontractors and material suppliers of the lien waiver policies related to weatherization services.
 - d) Any lien notice action by a contractor, its subcontractors or material suppliers, against a property owner may be considered non-performance by the terms and conditions of their contract, and the contractor, subcontractors and suppliers may be removed from the statewide weatherization agency bidder's list for a period of 2-5 years.
- 2) By engaging in a contract with the weatherization agency, the contractor agrees that if they do not pay for materials and labor completed through their weatherization contract, the weatherization agency has the option to use payments owed to the contractor to pay such subcontractors and suppliers.

6.18 Contract Sharing

Contract sharing is an allowable activity under the State of Wisconsin Procurement Manual (referred to as "Piggybacking" in [PRO-D-29](#)). When applied to the weatherization program, contract sharing allows a weatherization agency to use an existing open contract established by another weatherization agency. Contract sharing will not exist beyond the final contract date of the originating weatherization agency contract.

Agencies may request approval to utilize a commodity and/or services contract competitively bid by another agency. The requesting agency is the weatherization agency that seeks to share an open contract that was competitively bid and awarded by another weatherization agency. The originating agency is the weatherization agency that originally bid and awarded the open contract subject to the request. An open contract is a continuing contract for a specific period of time which is current (that is, operating within the designated contract period including renewal options).

A weatherization agency may use a contract established by another weatherization agency if the use of such contract is agreeable to both weatherization agencies and the vendor. It is the responsibility of the requesting agency to complete Procedures 1 through 3 below.

- 1) The requesting agency shall in all cases first make awards from its own list of current and responsive bidders prior to seeking the commodities/services of an originating agency's vendor.
- 2) The requesting agency shall review the originating agency's contract and determine that the following conditions are met:
 - a) The originating procurement must have been competitive (several bidders, generic specifications, etc.).
 - b) The contract must be an open contract and must be current. Current contracts are contracts established with prices that have remained competitive since award.
 - c) The commodities or services to be purchased shall be the same as those provided in the original contract. The terms and conditions provided in the original contract shall be accepted by the requesting agency.
 - d) The prices provided to the requesting agency shall be the same or better than those provided in the original contract.
 - e) The requesting agency shall obtain written authorization from the originating agency and vendor indicating each is in agreement with the proposed piggybacking and that production capacity for the originating agency will not be diminished.
- 3) The requesting agency shall provide the following information to the Division for approval via the [HE+ Help Desk](#) with the subject line: procurement contract sharing request:
 - Completed Contract Sharing Data Form Request including required attachments,
 - Written authorization from the originating agency, and
 - Written authorization from the vendor.
- 4) The Division will review the request to determine that all conditions above are met. If approved, the Division will respond to the requesting agency with written authorization to contract with the vendor.

7. Equipment and Materials Management

7.1 Property

Property includes non-consumable equipment, tools, vehicles, inventory and consumable materials. The Division and federal granting agency hold a reversionary interest in property purchased with weatherization program funds. Title to property is also vested with the Agency.

An Agency shall maintain asset accounts for all consumable and non-consumable property. Agencies shall have a system to control losses, damages or theft of Agency property (see Section 7.4 for property disposal requirements).

Purchase or lease of property shall be based on demonstrated Agency need. All equipment and vehicles shall be purchased entirely with PB funds, funds resulting from an approved disposition or an approved disposition applied as a trade-in.

Agencies shall request Division approval for all purchases with a total purchase price of \$5,000 or more per unit. See [6.10 Vehicle Lease or Purchase](#) for procurement requirements.

Disposition of property shall be in accordance with the rules of the funding source. The Division reserves the right to transfer equipment from one Agency to another if the equipment is found to be surplus. See the following sections for details on proper disposition of property by type.

7.2 Program Leasing of Agency Owned Property

The Division will allow the leasing of Agency owned property (such as vehicles, agency operations space or equipment) to the Weatherization Program if:

- Property was purchased with non-federal funds; and
- Total cost does not exceed the cost of comparable property or available alternatives.

Agencies may calculate charges for the property lease using one of the following methods:

- 1) **Allowance Method:** Charge an allowance not to exceed 2 percent of acquisition cost for building and improvements, including land improvements. When the allowance method is used for buildings, the entire building shall be treated as a single asset and the building's components (e.g. plumbing system, HVAC, etc.) cannot be segregated from the building shell. An Agency may compute equipment charges (for items that are attached or fastened to the building but not permanently fixed to it) at a rate not to exceed $6\frac{2}{3}$ percent of the acquisition cost.
- 2) **Depreciation Method:** Establish the period of useful service for each asset, taking into consideration the type of construction, nature of equipment and other factors influencing the asset's useful life. The method of depreciation used to assign the cost of an asset to an accounting period shall reflect the pattern of consumption during its useful life. If there is no clear pattern of consumption, use the straight line method.

Support charges for use, allowance or depreciation by adequate property records (including depreciation records for each accounting period if the depreciation method is used).

In addition to the allowance and depreciation methods, the Agency may calculate maintenance, taxes, insurance and interest into the lease charges.

7.3 Recordkeeping

7.3.1 Vehicles, Equipment and Tools

The Agency shall take a physical count of vehicles and non-consumable equipment and tools at least annually. The count shall be reconciled to the written records and the Agency shall document shortages in writing at the point of reconciliation.

The Division requires the following records be kept for vehicles and non-consumable equipment and tools with a total purchase price of \$5,000 or more per unit:

- 1) Description including model, year, serial or vehicle identification number, etc.;
- 2) Date of purchase;
- 3) Total purchase price, including any trade-in applied;
- 4) Source of funds used for purchase (DOE, LIHEAP, PB);
- 5) Location, use and condition of property;
- 6) Individual to whom property is assigned;
- 7) Records of maintenance completed; and
- 8) Disposition date, method, and amount received.

All equipment requiring calibration shall be maintained and calibrated according to manufacturer's recommendations.

7.3.2 Inventory Asset Accounts

The Agency shall take a physical count of materials and supplies inventory each month. An Agency shall maintain asset accounts for all consumable materials. There shall be a costing system, and a system for storage, handling and protection against damages and theft.

There shall be a monthly reconciliation of the physical inventory to the perpetual records and inventory asset account. The Division recommends a "first in, first out" system, and the Agency shall rotate stock and use older materials first.

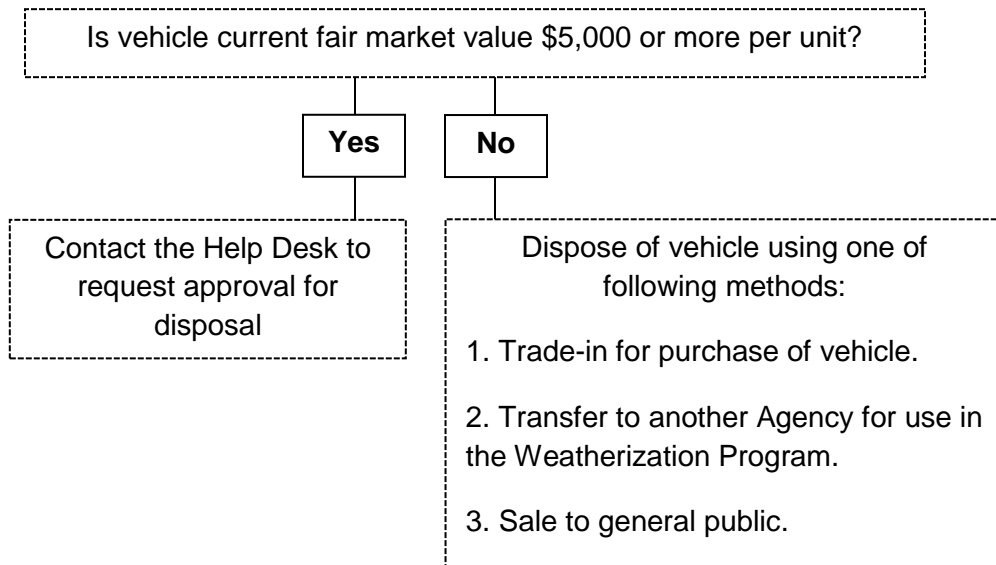
An Agency shall maintain an inventory record. This record shall include:

- 1) Location of inventory (if multiple storage locations);
- 2) Quantity of materials received and disbursed;
- 3) Description of materials;
- 4) Unit prices of materials;
- 5) Job number;
- 6) Date of disbursement, return and receipt;
- 7) Crew person signing materials in or out; and
- 8) Purchase Order number for all receipts.

7.4 Disposal

7.4.1 Vehicle Disposal

The chart below provides guidance for determining the method to use when disposing of vehicles and non-consumable tools and equipment. Acceptable methods for determining current fair market value include, but are not limited to, the following: using an existing Agency depreciation policy; blue book value or used retail value; obtaining a dealer or vendor quote.



Vehicles with current fair market value of less than \$5,000 may be disposed of using a system ensuring free and open competition without prior notification to other Agencies. Proceeds shall be used to purchase other weatherization materials or equipment.

The Agency shall request permission from the Division to dispose of vehicles with current fair market value of \$5,000 or more per unit. Written disposal requests shall include the following:

- 1) Explanation of why the vehicle can no longer be used in the Weatherization Program;
- 2) Description of the vehicle including model, year, identification number, odometer mileage, etc.;
- 3) Date of purchase;
- 4) Contract number when purchased;
- 5) Purchase value, including any trade-in applied;
- 6) Source of funds used for purchase (PB, DOE, LIHEAP, ARRA or EXXON) and percentages, if multiple funding sources were used;
- 7) Estimated current fair market value;
- 8) Condition of vehicle. If vehicle is in unsafe operating condition, or inoperable, supply an estimate of repair costs required to return the vehicle to operating condition; and
- 9) Copy of purchase approval letter, if applicable.

A Vehicle and Equipment Disposal template is available on the HE+ Procurement SharePoint page. Use of this template is optional.

Proceeds from such disposals shall be handled based on the requirements of the funding source. The Division will provide guidance regarding allowable use of the proceeds.

7.4.2 Equipment and Tools Disposal

For disposal of non-consumable tools and equipment with current fair market value of less than \$5,000 per unit, the Agency shall notify other Agencies that the equipment is available for use in the Weatherization Program. Acceptable methods for determining current fair market value include but are not limited to: using an existing Agency depreciation policy; used retail value; obtaining a vendor quote.

If the equipment is defective, it does not need to be offered to other Agencies.

If another Agency expresses interest, the equipment may be transferred to that Agency for the purpose of their use in the Weatherization Program. If no Agency expresses an interest, then the equipment may be disposed of using a system ensuring free and open competition. Proceeds shall be used to purchase other weatherization materials or equipment.

The Agency shall request permission from the Division to dispose of non-consumable tools and equipment with current fair market value of \$5,000 or more. Written disposal requests shall include the following:

- 1) Explanation of why the equipment can no longer be used in the Weatherization Program;
- 2) Description of the equipment including model, year, serial or identification number, etc.;
- 3) Date of purchase;
- 4) Contract number when purchased;
- 5) Purchase value;
- 6) Source of funds used for purchase (DOE, LIHEAP, EXXON, ARRA, or PB) and percentages, if multiple funding sources were used;
- 7) Estimated current fair market value;
- 8) Condition and age of equipment. If equipment is defective, in unsafe operating condition, or inoperable, supply an estimate of repair costs required to return the equipment to operating condition; and
- 9) Copy of purchase approval letter, if applicable.

7.4.3 Inventory Disposal

Any charge to be made against the contract to cover losses incurred in liquidating inventory shall be approved in writing by the Division.

The Agency shall initially contact the original vendor to request return of the items. If the items cannot be returned, the Agency may dispose of the inventory and shall notify all other Agencies that the inventory is available for use in the Weatherization Program. If an Agency expresses interest in the item(s), the inventory may be transferred to that Agency for the purpose of their use in the Weatherization Program.

If no Agency expresses an interest, then the inventory may be disposed of using a system ensuring free and open competition. The Agency shall submit a written request to sell inventory including:

- 1) Description of items to be sold, including

- a) unit price,
 - b) quantity of items,
 - c) original vendor and
 - d) funding source used to purchase items.
- 2) Disposal methods to be used (e.g., auction, public notice, or sealed bids). It is essential that the method chosen allows for open and free competition and that the general public has a chance to purchase the items.
- 3) Cost of selling the items, not to exceed 10 percent of the value of items being liquidated.
- 4) Plans for the use of any funds recovered (e.g., to be returned to the funding source, to be used to purchase other weatherization materials).

7.5 Consumable Materials

Consumable materials are materials that are not inventoried individually, difficult to measure on a per-unit basis and for which the unit quantity may be used in more than one building. Examples of consumable materials meeting this description are nails, paint thinner, push points, and other similar materials.

An Agency may use a cost allocation system for consumable materials and shall develop a consistent procedure to handle such consumable materials. When tools are assigned to a crew, an Agency does not need to inventory consumable tools that are usable for only one or two jobs.

7.6 Information Technology Hardware and Software

Agencies are responsible for all costs of hardware, software, and internet access required for Weatherization Program delivery. An Agency shall procure all IT hardware, software and services in accordance with all applicable federal and state guidelines and laws, and shall make full specifications and disclosure of such products and services available to the Division upon request.

An Agency shall track and maintain all IT hardware, software, and services that are purchased with Wisconsin Home Energy Plus program funds. All data handling will be in compliance with 2.3 Handling Sensitive Data.

Weatherization crews shall electronically document building test results and site conditions using the Wisconsin Diagnostic Workbook, available on the Home Energy Plus Training and Technical Assistance Website.

This workbook was developed for the State of Wisconsin and shall not be shared outside of the Weatherization Program and its specific contractors. The workbook shall not be modified except as authorized by the State of Wisconsin or its contractors. Agencies shall maintain the workbook with the most current updates.

Appendix A Summary of Policy Changes

The table below shows significant program and policy changes for Fiscal Year 2016-2017.

Section	Topic	Revision
6.7	Best Judgement Procurement	The threshold for best judgement procurement changed from \$5,000 to \$3,000. See 2 CFR 200.320.
6.16	Contractor Management	Added requirement that agencies notify the Help Desk within 30 days of deciding to terminate a contract due to performance issues. See DOE WPN 16-4.
6.18	Contract Sharing	Previously Contract Piggybacking was a stand-alone policy. It was incorporated into the Program Manual for FY17.